

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

(sd 2354)

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Civil Action No.:

CATHIA TANGO,

Plaintiffs,

NOTICE OF REMOVAL

-against-

Queens County

Index No.: 719295/2018

COSTCO WHOLESALE CORP.,

Defendant.

, J.  
, M.J.

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TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF NEW YORK:

Defendant, COSTCO WHOLESALE CORP. ("defendant"), by its attorneys, SIMMONS JANNACE DELUCA, LLP, Sal DeLuca, Esq., of counsel, upon information and belief, respectfully petitions the Court, pursuant to 28 U.S.C. § 1441, as follows:

1. On December 17, 2018, the above-captioned civil action was commenced and is now pending in the Supreme Court of the State of New York, County of Queens bearing Index Number 719295/2018. A trial has not yet been had therein. A copy of the Summons and Verified Complaint is annexed as **Exhibit "A"**. Defendant has not yet served an answer to plaintiff's complaint.

2. The action which sounds in negligence, seeks monetary damages for injuries allegedly suffered by plaintiff, CATHIA TANGO. Plaintiff, CATHIA TANGO alleges that as a result of Costco's negligence, "plaintiff was rendered sick, sore, lame

and disabled, was caused to suffer great pain, was and is internally and externally injured, will continue to endure great pain and suffering, and has sustained and will continue to sustain special damages, all to plaintiff's damage" see Ex. A at p. 3, ¶ 9.

3. The action involves a controversy between citizens of different states, in that: (a) Plaintiff is a citizen of the State of New York; (b) Defendant, COSTCO WHOLESALE CORP. is now, and was at the time the action was commenced, a corporation incorporated in the State of Washington with its principal place of business in the State of Washington.

4. This action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332. There is complete diversity between plaintiff and defendant.

5. In addition, the amount in controversy exceeds \$75,000. This office requested that plaintiff's counsel cap damages at that amount. Plaintiff's counsel was advised that it would be deemed that the amount in controversy exceeds \$75,000 should plaintiff fail to execute the stipulation by January 23, 2019. Plaintiff's counsel has ignored defendant's request to cap damages.

6. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of the Supreme Court of the

State of New York, County of Queens, promptly after the filing of this Notice.

7. Attached to this Notice, and by reference made a part hereof, are true and correct copies of all process and pleadings filed herein.

8. By filing this Notice of Removal, defendant does not waive any defenses which may be available to it, specifically including, but not limited to, its right to contest *in personam* jurisdiction over Petitioner, improper service of process and the absence of venue in this Court or the Court from which this action has been removed.

**WHEREFORE**, defendant prays that the above-captioned action now pending in the Supreme Court in the State of New York, County of Queens, be removed therefrom to this Court.

Dated: Hauppauge, New York  
January 24, 2019

SIMMONS JANNACE DELUCA, LLP

BY: 

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